

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:13-cr-98
	:	
Plaintiff,	:	Judge Thomas M. Rose
	:	
- vs -	:	
	:	
THOMAS GENE JORDAN, JR.,	:	
	:	
Defendant.	:	

**ENTRY AND ORDER OVERRULING OBJECTIONS (DOC. 86), ADOPTING
SECOND SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC. 85)
AND DISMISSING WITH PREJUDICE MOTION TO CORRECT SENTENCE
UNDER 28 U.S.C. § 2255 (DOC. 66)**

This habeas corpus case is before the Court on the Objections (Doc. 86) filed by Petitioner Thomas G. Jordan, Jr. (“Jordan”) to the Magistrate Judge’s Second Supplemental Report and Recommendations (“Second Supplemental Report”) (Doc. 85). In the Second Supplemental Report, Magistrate Judge Michael R. Merz recommended that Jordan’s Motion to Correct Sentence under 28 U.S.C. § 2255 (Doc. 66) be dismissed with prejudice. The Court previously ordered the dismissal of Jordan’s Motion to Correct Sentence, but vacated that Order after granting his subsequent Motion for Reconsideration. (Docs. 72, 76, 84.) Jordan’s Objections (Doc. 86) to the Second Supplemental Report (Doc. 85) therefore go to the merits of his Motion to Correct Sentence.¹

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Jordan’s Objections (Doc. 86) to the Second Supplemental Report (Doc. 85) are not well taken

¹ Jordan appealed the initial dismissal of his Motion to Correct Sentence before the Court ruled on his Motion for Reconsideration. As a result, the Court lost jurisdiction over the case and entered an indicative ruling stating that, if the Sixth Circuit were to remand the case for consideration of the Motion for Reconsideration, the Court would grant that Motion. The Sixth Circuit then remanded the case and the Court granted the Motion for Reconsideration.

and they are hereby **OVERRULED**. The Court **ADOPTS** the Second Supplemental Report (Doc. 85) in its entirety and rules as follows:

1. The Motion to Correct Sentence (Doc. 66) is **DISMISSED WITH PREJUDICE**;
2. As reasonable jurists would not disagree with this conclusion, Jordan is **DENIED** a certificate of appealability;²
3. The Court **CERTIFIES** to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*; and
4. This case shall be terminated on the Court's docket.

DONE and **ORDERED** in Dayton, Ohio, this Thursday, April 20, 2017.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

² This Order therefore also resolves Jordan's Motion for Certificate of Appealability (Doc. 74) and the Magistrate Judge's Report and Recommendations (Doc. 75) recommending that the Motion for Certificate of Appealability be denied.